IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2364 OF 2005

Mr.V.K.Gupta. ..Petitioner.

V/s.

The State of Maharashtra. ..Respondents.

Mr.V.D.Upadhyay for petitioner.

Ms. Gadvi, APP.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 16, 2005.

P.C. :

1. I am informed by the Section Officer that although spare copy was supplied by the applicant on 28th October, 2005, notices have not been sent for which reason, the returnable date will have to be extended. I see no reason as to what prevented the concerned officer to despatch notices as soon as the spare copies were supplied. That explanation is not forthcoming. Section officer to explain this position. This is necessary because as office notice has not been sent, matter will have to be adjourned and the petitioner would seek extension of ad-interim order which has been granted exparte.

2. Be that as it may, failure of the office to

send notices however, will not absolve the petitioner. This is so because this Court on 3rd October, 2005, in addition had directed the petitioner to serve the respondent No.2 by advocate's notice and file affidavit of service. Besides, on 18th October, 2005, conditional order came to be passed, which is a self-operative order. As the petitioner has not filed affidavit of service in terms of above said orders and the order being self-operative, petition already stands dismissed for non-prosecution without further reference to the court. Hence, no further order is necessary in the present case, unless petitioner is advised to take out appropriate proceedings.

3. The only aspect that needs to be examined is whether there is good cause for not forwarding court notices in time by the concerned officer. That explanation be offered to the Registrar, who in turn will consider the same and pass appropriate order in that behalf.